

## Model SCP Notice of Proposed Action

The following document is both a description of and a model for preparing a Notice of Proposed Action (NOPA) for pest control violations initiated pursuant to Business and Professions Code (BPC) section 8617. These actions are commonly referred to as “Structural Civil Penalty or “SCP” actions.

A NOPA for a hearing authorized by BPC section 8617, should have the following basic components:

- Opening
- Right to Review Evidence
- Right to Request a Hearing
- How to Request a Hearing
- Failure to Request Hearing
- How to Stipulate
- Stipulation and Waiver to Order
- Appeal Information
- Factual Circumstances of Violations
- Hearing Request (form)
- Closing

Depending on circumstances, or the particular procedures of a county, there may be a need to attach other documents and/or forms:

- Sample Hearing Request and Acknowledgement of Receipt of Notice of Proposed Action
- Sample Order - Stipulation and Waiver to Order and Acknowledgement of Notice of Proposed Action (*a.k.a.*, “*how to pay the fine without hearing*”)
- Sample Order – To Fine
- Sample Order – To Attend Course of Instruction
- Sample - How to Take A Course in Lieu of Paying the Proposed Fine
- Penalty Regulations, Pertinent Text of 16 CCR Section 1922 and/or 1922.3
- Authorization to Levy Fines, Pertinent Text of BPC Section 8617
- Appeals, Pertinent Text of BPC Section 8662

*Italicized information in the following model is intended to advise the person(s) preparing the notice. Italicized information should not be included verbatim in the final version of the NOPA, Requests, Stipulations or Orders.*

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***County Letterhead***

**DATE:**

**FILE NO.**        (*county abbreviation, fiscal year, case number*)

**NOTICE OF PROPOSED ACTION,  
NATURE OF VIOLATION, AND  
RIGHT TO REQUEST HEARING**

**TO:**    *Respondent's Name (business or individual – one entity per notice)*  
          *License Number (if applicable)*  
          *Attn: (individual's name if first line is a business)*  
          *Address*  
          *City, State, Zip Code*

You are hereby notified that the Agricultural Commissioner for the County of \_\_\_\_\_ proposes that you be fined the amount of \$\_\_\_\_\_ as a civil penalty for violating California's pesticide law(s) as cited below.

The authority for this action is granted to the County Agricultural Commissioner pursuant to the provisions of section 8617 of the Business and Professions Code (BPC). The amount of this fine was determined by applying the circumstances of the violation to the fine regulations adopted for use in these actions. The fine regulations are found in Title 16, California Code of Regulations (16CCR), section 1922, a copy of which is enclosed with this Notice of Proposed Action (*make sure you attach the documents stated above.*)

**You may review the evidence against you**

You are entitled to review the Commissioner's evidence supporting these charges during regular business hours at the office of the \_\_\_\_\_ County Agricultural Commissioner, located at \_\_\_\_\_ in \_\_\_\_\_, California. You may make an appointment to review the evidence against you during regular business hours at the address indicated above by calling \_\_\_\_\_ (*name*) \_\_\_\_\_ at \_\_\_\_\_ (*telephone number*) \_\_\_\_\_ during regular business hours. We may charge you reasonable costs for copies of documents related to the case.

**You may request a hearing**

You may request a hearing to review the Commissioner's evidence, and to present any evidence, oral or written, on your behalf, as to why the Commissioner should not take the proposed action. You do not need to be represented by legal counsel at the hearing, but your attorney may accompany you and represent you if you wish. You will be provided a written decision of the Commissioner's findings. A recording will be made of the entire hearing proceedings and will be available for your review.

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**How to request a hearing**

A hearing in this matter will be scheduled and held at the office of the County Agricultural Commissioner, located at the above noted address, if you request a hearing by signing, dating and returning the enclosed Hearing Request within 20 days of receipt of this Notice of Proposed Action.

**Failure to request a hearing**

Failure to timely request a hearing is a waiver of the right to a hearing, and the Commissioner may take the action proposed in this notice without a hearing. Further, failure to request a hearing is a waiver of your right to appeal the Commissioner's decision (see Appeals below).

**Option to "stipulate" to the action and pay the fine**

If you do not wish to request a hearing to contest the charges and proposed action, you may stipulate (agree) to the enclosed Order by dating, signing, and returning the enclosed Stipulation and Waiver to Order within 20 days of receipt of this notice.

**Appeals**

If you request and attend the hearing, and you disagree with the Commissioner's written decision, you may appeal the decision to the Disciplinary Review Committee of the Structural Pest Control Board. However, you waive these appeal rights if you do not request and attend the hearing at the scheduled time and date.

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**FACTUAL CIRCUMSTANCES OF VIOLATION(S)**

You are charged with violating California's pesticide laws and regulations as cited below. A brief description of the nature of each violation, the facts of each violation, and an explanation of how the fine level was determined follows:

**COUNT 1, VIOLATION AND FINE EXPLANATION**

**COUNT 2, VIOLATION AND FINE EXPLANATION** *(if applicable)*

**COUNT 3, VIOLATION AND FINE EXPLANATION** *(if applicable, etc.)*

**ATTACHMENT(S)**

*(list attachments of code text if you have provided them)*

A copy of the text of 16 CCR, section 1922, and/or BPC section \_\_\_\_\_ and/or 16CCR section(s) \_\_\_\_\_ and/or FAC section(s) \_\_\_\_\_ and/or 3 CCR section(s) \_\_\_\_\_ is/are enclosed for your convenience, *(again, enclose only those which apply to this case.*

*The most likely code sections you will need to provide are the specific violation codes, 16 CCR section 1922, and BPC section 8617. In some cases you may wish to attach BPC section 8662 or the text of the actual violations identified or any other code sections noted in the action.*

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**HEARING REQUEST AND  
ACKNOWLEDGMENT OF RECEIPT OF  
NOTICE OF PROPOSED ACTION**

**FILE NO.**      *(county abbreviation, fiscal year, case number)*

**Important:** The Hearing Request must be submitted to the Agricultural Commissioner within 20 days of receipt of the Notice of Proposed Action.

**TO:** *Respondent's Name*  
*Address*

I, the undersigned respondent in this proceeding, hereby acknowledge receipt of a copy of the Notice of Proposed Action.

I request a hearing to permit me to have an opportunity to present my defense to the violations contained in the Notice of Proposed Action.

\_\_\_\_\_  
Respondent's Printed Name

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone

**Mail this form to:**

*County Name*  
*Commissioner's Official Title*  
*Address*

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**STIPULATION AND WAIVER TO ORDER AND ACKNOWLEDGMENT OF  
RECEIPT OF NOTICE OF PROPOSED ACTION**

**FILE NO.**      *(county abbreviation, fiscal year, case number)*

**TO:** *Respondent's Name*  
*Address*

I, the undersigned respondent in this proceeding, hereby acknowledge receipt of a copy of the Notice of Proposed Action.

I hereby stipulate that the Agricultural Commissioner's Notice of Proposed Action in the above-entitled matter states grounds for the fine action based on the evidence now before the Agricultural Commissioner.

I further stipulate to the Agricultural Commissioner's Order and I waive all rights to a hearing and appeal or any other review in this matter.

\_\_\_\_\_  
Respondent's Printed Name

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone

Make a check **payable to:**      "Structural Pest Control Board  
Education and Enforcement Fund"

**Sign and date the Stipulation and Waiver to Order** portion of this form (above).

**Mail check and Stipulation and Waiver to Order to:**

*County Name*  
*Commissioner's Official Title*  
*Address*

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**DATE:**

**ORDER** (to fine)

**FILE NO.** (county abbreviation, fiscal year, case number)

**TO:** Respondent's Name)  
Address

**ORDER:** It is hereby ordered that (name) is fined (amount). The fine is due now and payable.

\_\_\_\_\_  
Commissioner's Signature  
Commissioner's Official Title  
County Name  
Address

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**Instructions to Respondent:**

If you wish to pay the fine and not request (waive) a hearing, you may sign the Stipulation and Waiver to Order below and submit it to the Agricultural Commissioner. By doing so, you also waive your right to an appeal or any other review in this matter.

**STIPULATION AND WAIVER TO ORDER**

I hereby stipulate that the Agricultural Commissioner's Notice of Proposed Action in the above-entitled matter states grounds for civil penalty action based on the evidence now before the Commissioner.

Without admitting to the violations alleged in the Notice of Proposed Action, I stipulate to the Commissioner's Order to pay the fine, as set forth above, and I waive all rights to a hearing and appeal or any other review in this matter.

\_\_\_\_\_  
Respondent's Printed Name

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Telephone

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**DATE:**

**ORDER** *(attend course of instruction)*

**FILE NO.** *(county abbreviation, fiscal year, case number)*

**TO:** *Respondent's Name*  
*Address*

**ORDER:** Pursuant to Business and Professions Code section 8617, it is hereby ordered that \_\_(name)\_\_ is fined \_\_(amount)\_\_. The fine is due now and payable.

Pursuant to Business and Professions Code section 8617 and Title 16, California Code of Regulations, section 1922.3, in lieu of payment of the aforementioned fine, \_\_(name)\_\_ is hereby ordered to attend and pass a Structural Pest Control Board-approved course of instruction at a cost not to exceed \_\_(the amount of the proposed administrative fine) \_\_ (and/or both) \_\_. See the attachment, "Take a Course in Lieu of Paying the Fine."

*Commissioner's Signature*  
*County Name*  
*Commissioner's Official Title*  
*Address*

*Telephone*

**Instructions to Respondent:**

If you wish to attend a course in lieu of paying the fine and not request (waive) a hearing, you may sign the Stipulation and Waiver to Order below and submit it to the Agricultural Commissioner. By doing so, you also waive your right to an appeal or any other review in this matter. You also agree to take a course of study within the parameters described and approved by the Commissioner.



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**ORDER** *(attend course of instruction), continued*

**STIPULATION AND WAIVER TO ORDER**

I hereby stipulate that the Agricultural Commissioner's Notice of Proposed Action in the above-entitled matter states grounds for civil penalty action based on the evidence now before the Commissioner.

Without admitting to the violations alleged in the Notice of Proposed Action, I stipulate to the Commissioner's Order to attend an approved course of instruction, as set forth above, and I waive all rights to a hearing and appeal or any other review in this matter.

\_\_\_\_\_  
Respondent's Printed Name

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Telephone

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**HOW TO TAKE A COURSE IN LIEU OF PAYING THE PROPOSED FINE**

- Find a course that directly addresses applicable pesticide use laws, regulation, and the practice of structural pest control that includes subject matter related to the violation(s) committed.
- Within 20 days of the order, submit the name of the course and documentation regarding its content to the Agricultural Commissioner. Send course information to the attention of \_\_\_\_\_ at the address below. Approval or denial of a course will be made as soon as possible within 20 days of receiving the request.
- You may find it helpful to look for courses on the Structural Pest Control Board website: <http://www.pestboard.ca.gov/education/ceaa2.pdf> . Courses offered in-house by your employer or business will not be considered for purposes of this penalty.
- Attend the course and obtain a Certificate of Completion.
- Sign and Date the Stipulation and Waiver Order found within this Notice of Proposed Action.
- Mail the original Certificate of Completion and Stipulation and Waiver to Order within 20 days of completing the course to:  
*County Name*  
*Department Name*  
*Attn: \_\_\_\_\_*  
*Address*

The Certificate of Completion will be returned to you with the notation, "Not to be used for license renewal." A copy of the Certificate of Completion will be mailed to the Structural Pest Control Board and the Department of Pesticide Regulation Enforcement Branch.

- Completion of an approved course of instruction may fulfill the Commissioner's Order in this matter only.
- Do not attempt to use the certificate of completion to obtain or renew your license.

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HOW TO TAKE A COURSE IN LIEU OF PAYING THE PROPOSED FINE, continued

Please call \_\_\_\_\_, of my staff, if you have any questions.

*OR*

Please call me if you have any questions.

*Commissioner's Signature*

*County Name*

*Commissioner's Official Title*

*Address*

*Telephone Number*